



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

MAY 30 2018

Mr. Richard Stubblefield

Mount Vernon, IL 62864

RE: MUR 7007

Dear Mr. Stubblefield:

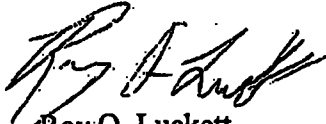
This is in reference to the complaint you filed with the Federal Election Commission on February 4, 2016, concerning allegations that multiple parties may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On November 7, 2017, the Commission found reason to believe that Kyle McCarter for Congress Committee and Kelly Standfield, in her official capacity as treasurer ("Federal Committee") violated 52 U.S.C. §§ 30116(f) and 30118(a), provisions of the Act as to certain contributions it received, but found no reason to believe that the Federal Committee violated 52 U.S.C. § 30118(a) with respect to other contributions. The Commission also found no reason to believe that the Federal Committee or Citizens for Kyle McCarter violated 52 U.S.C. § 30125(e) and 11 C.F.R. § 110.3(d). Additionally on that date, the Commission found that there was reason to believe James W. Best violated 52 U.S.C. § 30116(a); found that there was no reason to believe that Rural King Distribution and Management, Inc., Burgdorf and Associates Wealth Managers, Inc., and Rural King Distributing violated 52 U.S.C. § 30118(a); found no reason to believe that Total Grain Marketing, LLC violated 52 U.S.C. §§ 30116(a) and 30118(a); dismissed the allegation that Tri Ford, Inc. violated 52 U.S.C. § 30118(a); and exercised its prosecutorial discretion and dismissed the allegations relating to Darren Bailey, who made the contribution attributed to Total Grain Marketing, LLC, as specified in your complaint. On May 22, 2018, the Commission accepted the signed conciliation agreements with the Federal Committee and James W. Best. Accordingly, the file in this matter is now closed.

Documents related to the case will be placed on the public record within 30 days. See Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). Copies of the agreements and Factual and Legal Analyses are enclosed for your information. A Statement of Reasons providing the basis for the Commission's dismissal as to Darren Bailey will be forthcoming.

Mr. Richard Stubblefield
MUR 7007
Page 2

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in dark ink, appearing to read "Roy Q. Lockett", written in a cursive style.

Roy Q. Lockett
Attorney

Enclosures

Factual and Legal Analyses
Conciliation Agreements

1-800-444-4400

1 **THE FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

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6 **RESPONDENTS:** Kyle McCarter for Congress Committee and **MUR: 7007**
7 Kelly Standfield in her official capacity as
8 treasurer
9 Citizens for Kyle McCarter
10

11 **I. INTRODUCTION**

12 This matter was generated based on information ascertained by the Federal Election
13 Commission (the "Commission") in the normal course of carrying out its supervisory
14 responsibilities, and by a Complaint filed by Richard Stubblefield. Kyle McCarter for Congress
15 Committee ("Federal Committee") was referred for possible enforcement action regarding
16 apparent excessive and prohibited contributions that it received during the 2016 election cycle.
17 The Federal Committee was also referred regarding its receipt of general election contributions
18 that were not refunded after McCarter lost the 2016 primary election.

19 The Federal Committee's receipt of the apparent excessive and prohibited contributions
20 is also the subject of the Complaint in MUR 7007. The Complaint also alleges that McCarter's
21 state senate committee, Citizens for Kyle McCarter ("State Committee"), made prohibited in-
22 kind contributions to the Federal Committee by paying for consulting services provided to
23 McCarter's federal campaign.

24 As set forth below, the Commission finds reason to believe that the Federal Committee
25 knowingly accepted excessive and prohibited contributions in violation of 52 U.S.C. §§ 30116(f)
26 and 30118(a), provisions of the Federal Election Campaign Act of 1971, as amended (the "Act").
27 The Commission also finds no reason to believe that the Federal Committee or Citizens for Kyle

McCarter ("State Committee") violated 52 U.S.C. § 30125(e) and 11 C.F.R. § 110.3(d) in connection with the State Committee's alleged payment for consulting services.

II. FACTUAL AND LEGAL ANALYSIS

Kyle McCarter is a State Senator in the Illinois General Assembly who sought the Republican nomination in the 15th Congressional District in Illinois in 2016. McCarter designated the Federal Committee as his principal campaign committee for the congressional election. McCarter lost the primary election on March 15, 2016.

A. Excessive and Corporate Contributions

For the 2016 election cycle, no person was permitted to make contributions to a candidate for federal office or his authorized political committee which in the aggregate exceeded \$2,700 for each election.¹ Candidates and political committees are prohibited from knowingly accepting excessive contributions.² The Commission's regulations provide that when a committee receives an excessive contribution, the committee must, within 60 days of the contribution's receipt, either refund the excessive portion of the contribution or obtain a redesignation or reattribution from the contributor.³

The Act and Commission regulations further prohibit corporations from making contributions to candidate committees and prohibit those committees from knowingly accepting or receiving such contributions.⁴ Contributions that present genuine questions as to whether they are prohibited may be, within ten days of receipt, deposited into a campaign depository or

¹ See 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1).

² See 52 U.S.C. § 30116(f).

³ See 11 C.F.R. § 103.3(b)(3).

⁴ 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b), (d).

4 As set forth in the chart below, the Federal Committee is alleged to have received six
5 2016 primary election contributions totaling \$48,363.69 that were either excessive or prohibited.⁷
6 One of the corporate contributions in the amount of \$500 has apparently not been refunded, and
7 three of the contributions totaling \$44,913.69 were not timely refunded.⁸

Referral at 1, Attach. 3.

Contributor	Date	Excessive or Prohibited Amount	Election	Refunded # Days After Receipt	Source
Tri Ford, Inc. (Corporation) (Compl. Exhibit H)	11/05/15	\$ 305.00	Primary	84	Complaint and Referral
James W. Best	11/05/15	\$34,600.00	Primary	84	Complaint and Referral
Darren Bailey ⁹	12/08/15	\$10,008.69	Primary	64	Complaint and Referral ¹⁰
Burgdorf & Associates Wealth Managers, Inc. (Corporation) (Compl. Exhibit E)	12/31/15	\$ 250.00	Primary	28	Complaint
Rural King Distributing (Corporation) (Compl. Exhibit F)	12/31/15	\$ 2,700.00	Primary	28	Complaint
Terra Properties (Corporation)	12/31/15	\$ 500.00	Primary	N/A	Referral
	Total	\$48,363.69			

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2 The Federal Committee concedes that it received improper contributions but maintains
3 that it did not intend to violate federal election law and asserts that it used a vendor that was
4 responsible for depositing checks, reviewing them for election compliance purposes, and

⁹ The Federal Committee disclosed Darren Bailey's contribution as a contribution from Total Grain Marketing, LLC ("TGM"). The available information indicates that Darren Bailey, a TGM customer, delivered grain to a grain terminal in exchange for grain tickets totalling \$10,008.69. Bailey then took those tickets to a TGM location to exchange the tickets for cash. Instead of receiving the cash, Bailey requested a check made out to the Federal Committee. The TGM location granted this request. On February 25, 2016, after the Committee refunded the contribution to TGM, TGM issued a \$10,008.69 check to Bailey. On February 11, 2016, Bailey separately contributed \$2,700 to the Federal Committee designated for the 2016 primary election.

¹⁰ The Referral likewise lists TGM as the contributor. See Referral at 1, Attach. 3.

1 returning any that were not acceptable under the Act.¹¹ According to the Federal Committee,
2 once the vendor alerted the Committee that “several checks had been deposited mistakenly into
3 the campaign coffers, the monies were immediately returned to the donors.”¹² McCarter
4 subsequently responded to the Referral on behalf of the Federal Committee, asserting that it was
5 his understanding that his “campaign has refunded all monies owed, had contributions re-
6 assigned, or reclassified any transactions in error according to your requests” and that “all refund
7 checks have cleared [the Federal Committee’s] bank.”¹³

8 The available information indicates that the Federal Committee timely refunded within
9 30 days the corporate contributions from Burgdorf and Rural King Distributing, which reflects
10 \$2,950 of the \$48,363.69 amount listed above.¹⁴ The Federal Committee did not timely refund
11 the remaining contributions and has not to date refunded the \$500 from Terra Properties.

12 Based on the foregoing, the Commission finds reason to believe that the Federal
13 Committee violated 52 U.S.C. §§ 30116(f) and 30118(a) by knowingly accepting excessive and
14 prohibited contributions totaling \$45,413.69 (\$48,363.69 - \$2,950.00).

¹¹ Federal Committee Compl. Resp. at 2 (Mar. 29, 2016). Though the Federal Committee asserts that the impermissible contributions were caused by the vendor it hired to review its contributions for compliance with the Act, the Federal Committee is responsible for ensuring the permissibility of its own contributions. *See, e.g.*, MUR 6568 (Heath Shuler for Congress) (finding that Committee failed to report disbursements caused by vendor’s error) and MUR 6300 (Republican Party of Virginia) (finding RPV responsible for its vendor’s failure to timely forward contributions and RPV’s consequential reporting errors). *But see, e.g.*, MUR 5991 (U.S. Term Limits) (dismissed the disclaimer allegations because of confirmed vendor error).

¹² Federal Committee Compl. Resp. at 2.

¹³ Federal Committee Referral Resp. at 1 (Dec. 28, 2016).

¹⁴ *See* 11 C.F.R. § 103.3(b)(1).

B. General Election Contributions

The Commission's regulations permit a candidate's committee to receive contributions for the general election prior to the primary election.¹⁵ If, however, the candidate does not become a candidate in the general election, the committee must: (1) refund the contributions designated for the general election; (2) redesignate such contributions in accordance with 11 C.F.R. §§ 110.1(b)(5) or 110.2(b)(5); or (3) reattribute such contributions in accordance with 11 C.F.R. § 110.1(k)(3).¹⁶ The committee must do so within 60 days of the date that the committee has actual notice of the need to redesignate, reattribute, or refund the contributions, such as the date the candidate loses the primary or withdraws from the campaign.¹⁷

Redesignation of general election contributions may only occur to the extent that the amount redesignated does not exceed the contributor's contribution limit for the primary and the amounts redesignated do not exceed the net debts outstanding from the primary.¹⁸ If a committee deposits contributions that exceed its net debts outstanding, it must, within 60 days of accepting the excessive contributions, refund, redesignate, or reattribute the excessive

¹⁵ See 11 C.F.R. § 102.9(e)(1). The committee must use an acceptable accounting method to distinguish between primary and general election contributions. *Id.* The committee's records must demonstrate that prior to the primary election, the committee's recorded cash on hand was at all times equal to or in excess of the sum of general election contributions received less the sum of general election disbursements made. See 11 C.F.R. § 102.9(e)(2).

¹⁶ See 11 C.F.R. §§ 102.9(e)(3), 110.1(b)(3)(i), 110.2(b)(3)(i). See also Advisory Op. 1992-15 (Russo for Congress Committee) at 2 ("Nonetheless, the Commission concludes that for losing primary candidates, like Mr. Russo, who receive contributions before the primary election that are designated for the general election, redesignations within 60 days of the primary election date would be permissible."); Advisory Op. 2007-03 (Obama for America) at 3 ("If a candidate fails to qualify for the general election, any contributions designated for the general election that have been received from contributors who have already reached their contribution limit for the primary election would exceed FECA's contribution limits.").

¹⁷ See Advisory Op. 2008-04 (Dodd); Advisory Op. 1992-15 (Russo).

¹⁸ See 11 C.F.R. §§ 110.1(b)(5)(iii) and (b)(3)(i), 110.2(b)(5)(iii) and (b)(3)(i); see also AO 1992-15 (Russo) at 2. A committee's net debts outstanding are calculated, in relevant part, based on the total amount of debts and obligations incurred for an election, less the total cash on hand available, and any amounts owed to the committee. 11 C.F.R. § 110.1(b)(3)(ii).

1 contributions.¹⁹ Likewise, reattribution of a general election contribution to another contributor
2 may only occur to the extent that such attribution does not exceed that other contributor's
3 contribution limits.²⁰

4 RAD referred the Federal Committee's acceptance of three general election contributions
5 totaling \$5,900 that were designated for the 2016 general election, but were not redesignated,
6 reattributed, or refunded within 60 days after the candidate's March 15, 2016, primary election
7 loss.²¹ The Federal Committee's disclosure reports do not reflect that these particular
8 contributions have been refunded to date. The chart below lists the contributions at issue:

Contributor	Date	Amount	Election	Refunded # Days After Receipt
Robert Mercer	2/22/16	\$2,700	General	N/A
Seven Oaks Apartments (Partnership)	3/08/16	\$2,500	General	N/A
William Hotaling	3/09/16	\$ 700	General	N/A
	Total	\$5,900		

9
10 Accordingly, the Commission finds reason to believe that the Federal Committee further
11 violated 52 U.S.C. § 30116(f) by knowingly accepting excessive contributions.

12 **C. State Committee Payments for Consulting Services**

13 The Complaint also alleges that the State Committee used impermissible nonfederal
14 funds to pay for the services of a campaign consultant for the Federal Committee, which the

¹⁹ See 11 C.F.R. §§ 110.1(b)(3)(i), 110.2(b)(3)(i); see also 11 C.F.R. §§ 110.1(b)(5) and 110.1(k)(3).

²⁰ See 11 C.F.R. § 110.1(k)(3)(ii)(B)(1); see also AO 2007-03 (Obama) at 3.

²¹ *Id.* at 2. See 11 C.F.R. § 102.9(e)(3).

1 latter failed to report.²² According to the Complaint, in the months before McCarter announced
2 that he was running for federal office — McCarter filed his Statement of Candidacy on
3 October 15, 2015 — McCarter's State Committee spent over \$33,000 on a campaign consultant,
4 Isaiah Consulting Group ("Isaiah"), even though McCarter's term in the State Senate does not
5 end until 2019, and he had reportedly announced that he was not seeking re-election to that
6 office.²³ The Complaint further states that Elizabeth Van Holt, the owner of Isaiah, attended
7 McCarter's October 7, 2015, federal candidacy announcement, and McCarter reportedly
8 informed the press that she had been hired to work on his congressional campaign.²⁴

9 The Federal Committee asserts that the State Committee previously paid Isaiah for state-
10 level consulting, specifically, contract work performed by Van Holt for the State Committee
11 starting in January 2015 and concluding on August 31, 2015.²⁵ It further asserts that Van Holt's
12 duties for the State Committee included "organizing events, donor contact and overall assistance
13 with campaign management."²⁶ The Federal Committee provided a photocopy of an undated
14 contract signed by Isaiah and McCarter on behalf of the State Committee, which provides for
15 eight monthly payments of \$4,125 (totaling \$33,000). During this eight-month period, referred
16 in the contract as the "Advisory Period," Isaiah agreed to "provide strategic advice, guidance,
17 and counseling" regarding the State Committee's business and operations.²⁷ Additionally, Isaiah

²² Compl. at 1.

²³ *Id.*

²⁴ *Id.* at 2.

²⁵ Federal Committee Compl. Resp. at 1.

²⁶ *Id.*

²⁷ *Id.*, Ex. A (Isaiah Contract ("Strategic Advisor Agreement")).

1 agreed to assist the State Committee on “branding, strategic management and fundraising”
2 issues.²⁸

3 In support of the Federal Committee’s response, Van Holt declares in an Affidavit that
4 she discussed with McCarter in October 2015 the possibility of working for the Federal
5 Committee.²⁹ She further avers that while the Federal Committee “could not afford [her]
6 services,” the parties agreed verbally that she “would perform part time volunteer services for the
7 [F]ederal Committee,” which ultimately consisted of “some field work and assistance with
8 fundraising.”³⁰

9 The State Committee asserts that the Complaint’s sole “evidence” that the State
10 Committee provided an in-kind contribution to the Federal Committee is Van Holt’s “mere
11 presence at a campaign announcement,” which alone is insufficient to constitute a violation of
12 the Act.³¹

13 Under the Act, a federal candidate, the agent of a candidate, or an entity directly or
14 indirectly established, financed, maintained, or controlled by, or acting on behalf of a candidate,
15 shall not “solicit, receive, direct, transfer, or spend funds in connection with an election for
16 Federal office” unless the funds are subject to the “limitations, prohibitions, and reporting

²⁸ *Id.*

²⁹ Federal Committee Compl. Resp., Van Holt Aff. ¶ 8.

³⁰ *Id.* ¶¶ 8-10.

³¹ State Committee Resp. at 1-2 (June 3, 2016).

1 requirements."³² Moreover, Commission regulations prohibit the transfer of funds or assets from
2 a candidate's nonfederal campaign committee to his or her federal campaign committee.³³ Thus,
3 if the State Committee disbursed \$33,000 to pay for consultant fees for services provided to the
4 Federal Committee, those payments constitute improper transfers of funds or assets to the
5 Federal Committee.³⁴

6 The Complaint argues that the amount of the State Committee's payment to Van Holt's
7 consulting company and her appearance at McCarter's candidacy announcement demonstrates a
8 scheme to use McCarter's state campaign funds to benefit his federal candidacy. But these
9 circumstances alone are insufficient to draw an inference that such a scheme occurred. The
10 Federal and State Committees and Van Holt each assert that the payments by the State
11 Committee to Isaiah were for services provided to the State Committee at a time when McCarter
12 was a State Senator and had ongoing official duties. Indeed, Isaiah concluded performing these
13 services before McCarter announced his candidacy, and the Complaint does not allege, and the
14 available record does not suggest, that these services reflected testing the waters activity to gauge
15 the viability of his potential run. Further, Van Holt and the Federal and State Committees each

³² 52 U.S.C. § 30125(e)(1); 11 C.F.R. §§ 300.60, 300.61. Illinois law permits candidates to accept contributions from corporations subject to limitations. See 10 ILCS 5/9-8.5(a)-(d) (during an election cycle, a candidate political committee may not accept contributions with an aggregate value over \$10,000 from any corporation).

³³ 11 C.F.R. § 110.3(d) (transfers of funds or assets from a candidate's campaign committee or account for a nonfederal election to his or her principal campaign committee or other authorized committee for a federal election are prohibited); Transfers of Funds from State to Federal Campaigns, 58 Fed. Reg. 3474 (Jan. 8, 1993) (Explanation and Justification).

³⁴ See MUR 6267 (Paton For Senate) (Paton's federal committee violated 11 C.F.R. § 110.3(d) by receiving prohibited transfer of funds when Paton's state senate committee paid for polling and a survey benefiting his federal campaign); and MUR 5646 (Cohen for New Hampshire) (Cohen's federal committee received prohibited transfer of funds when Cohen's state committee paid for start-up expenses related to his U.S. Senate campaign).

1 deny that Isaiah performed work for the Federal Committee.³⁵ Based on these factors, it does not
2 appear that Isaiah's services to the State Committee from January through August 2015
3 constituted an in-kind contribution to McCarter's Federal Committee. Accordingly, the
4 Commission finds no reason to believe the Federal and State Committees violated 52 U.S.C.
5 § 30125(e) or 11 C.F.R. § 110.3(d).

³⁵ Shortly after the Complaint was filed, on February 8, 2016, the Federal Committee paid \$2,479 to Isaiah for "fun[d]raising consulting." See Federal Committee 2016 12-Day Pre-Primary Report (Mar. 3, 2016) at 75, *available at* <http://docquery.fec.gov/pdf/039/201603039009641039/201603039009641039.pdf>. The Federal Committee disclosed an additional disbursement to Isaiah Consulting Group for expenses on October 4, 2016. See Federal Committee 2016 Year-End Report (Jan. 31, 2017) at 8, *available at* <http://docquery.fec.gov/pdf/009/201701319042197009/201701319042197009.pdf>.

But Van Holt declares in her Affidavit that this description is incorrect, as this disbursement should have reflected a reimbursement solely to Van Holt for expenses relating to her volunteer services, which included hotel, skype, food, and gas charges. Federal Committee Compl. Resp. at 1-2, Van Holt Aff. ¶ 12. The Federal Committee further states that it intended to file an amended report to properly report this activity. *Id.* at 2. However, to date, the Federal Committee has not amended its report to reflect the appropriate disbursement.

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**
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6 **RESPONDENT:** Total Grain Marketing, LLC **MUR:** 7007
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8 **I. INTRODUCTION**

9 This matter was generated based on a Complaint filed by Richard Stubblefield. As set
10 forth below, the Federal Election Commission (the "Commission") finds no reason to believe
11 that Total Grain Marketing, LLC ("TGM") violated 52 U.S.C. § 30116(a), a provision of the
12 Federal Election Campaign Act of 1971, as amended (the "Act"), by making an excessive
13 contribution.

14 **II. FACTUAL BACKGROUND**

15 The Complaint alleges that on December 8, 2015, TGM made an excessive contribution
16 in the amount of \$10,008.69 to Kyle McCarter for Congress Committee ("Committee"), the
17 principal campaign committee for McCarter, who sought the Republican nomination in the 15th
18 Congressional District in Illinois in 2016.

19 TGM's response to the Complaint disputes that it was the source of the contribution at
20 issue. It explains that on November 11, 2015, Darren Bailey, a TGM customer, delivered grain
21 to a grain terminal in exchange for grain tickets totaling \$10,008.69.¹ Bailey then took those
22 tickets to a TGM location to exchange the tickets for cash.² Instead of receiving the cash, Bailey
23 requested that the check be made out to the Committee. The TGM location granted this request,
24 although this action was not consistent with TGM policy, and forwarded a check in the amount

¹ TGM Resp. at 1 (Feb. 29, 2016).

² *Id.*

1 of \$10,008.69 to the Committee.³ The Committee subsequently disclosed TGM as the source of
2 this contribution.

3 On February 25, 2016, after the Committee refunded the contribution to TGM, TGM
4 issued a \$10,008.69 check to Bailey.

5 **III. LEGAL ANALYSIS**

6 For the 2016 election cycle, no person was permitted to make contributions to a candidate
7 for federal office or his authorized political committee which in the aggregate exceeded \$2,700
8 for each election.⁴ The Act and Commission regulations further prohibit corporations from
9 making contributions to candidate committees.⁵

10 The available record indicates that Total Grain Marketing, LLC did not make the
11 contribution at issue. Accordingly, the Commission finds no reason to believe that Total Grain
12 Marketing, LLC violated 52 U.S.C. §§ 30116(a) or 30118(a).⁶

³ *Id.* at 2.

⁴ See 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1).

⁵ 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b), (d).

⁶ Any contribution by TGM, an LLC, would be treated as a contribution from either a partnership or a corporation depending on how it elects to be treated by the IRS. See 11 C.F.R. § 110.1(g). The available information does not indicate which form TGM has elected. In TGM's response to the Complaint, it describes itself as a subsidiary of Growmark, Inc. but does not describe its own status. See TGM Resp. at 1. The Illinois Secretary of State website does not include information indicating whether TGM is treated as a partnership or a corporation. See Illinois Secretary of State LLC File Detail Report, available at <https://www.ilsos.gov/corporatellc/CorporateLlcController>.

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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6 **RESPONDENT:** Tri Ford, Inc. **MUR:** 7007

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8 **I. INTRODUCTION**

9 This matter was generated based on a Complaint filed by Richard Stubblefield. As set
10 forth below, the Federal Election Commission (the "Commission") dismisses the allegation that
11 Tri Ford, Inc. ("Respondent") violated 52 U.S.C. § 30118(a), a provision of the Federal Election
12 Campaign Act of 1971, as amended (the "Act"), by making a prohibited contribution.

13 **II. FACTUAL BACKGROUND**

14 The Complaint alleges that on November 5, 2015, Respondent, a corporation, made a
15 prohibited \$305 contribution to Kyle McCarter for Congress Committee ("Committee"), the
16 principal campaign committee for McCarter, who sought the Republican nomination in the 15th
17 Congressional District in Illinois in 2016. On January 28, 2016, the Committee refunded \$305 to
18 Respondent.

19 Tri Ford, Inc. acknowledges in response to the Complaint that it made an improper
20 contribution that the Committee refunded.¹

¹ Tri Ford Resp. at 1 (Feb. 22, 2016).

III. LEGAL ANALYSIS

The Act and Commission regulations prohibit corporations from making contributions to candidate committees.²

The available record indicates that Respondent made an impermissible corporate contribution. Nevertheless, because of the small amount of the contribution (\$305), further use of Commission resources is not warranted.³ Accordingly, the Commission has exercised its prosecutorial discretion to dismiss the allegation that Tri Ford, Inc. violated 52 U.S.C. § 30118(a) by making a prohibited contribution.⁴

² 52 U.S.C § 30118(a); 11 C.F.R. § 114.2(b), (d).

³ See Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12545, 12546 (Mar. 16, 2007).

⁴ See *Heckler v. Chaney*, 470 U.S. 821 (1985).

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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6 **RESPONDENT:** Rural King Distributing **MUR:** 7007

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8 **I. INTRODUCTION**

9 This matter was generated based on a Complaint filed by Richard Stubblefield. As set
10 forth below, the Federal Election Commission (the "Commission" finds no reason to believe that
11 Rural King Distributing ("Respondent") violated 52 U.S.C. § 30118(a), a provision of the
12 Federal Election Campaign Act of 1971, as amended (the "Act"), by making a prohibited
13 contribution.

14 **II. FACTUAL BACKGROUND**

15 The Complaint alleges that on December 31, 2015, Respondent, a corporation, made a
16 prohibited \$2,700 contribution to Kyle McCarter for Congress Committee ("Committee"), the
17 principal campaign committee for McCarter, who sought the Republican nomination in the 15th
18 Congressional District in Illinois in 2016. Twenty-eight days later, on January 28, 2016, the
19 Committee refunded \$2,700 to Respondent.

20 **III. LEGAL ANALYSIS**

21 The Act and Commission regulations prohibit corporations from making contributions to
22 candidate committees.¹ Contributions that present genuine questions as to whether they are
23 prohibited may be, within ten days of receipt, deposited into a campaign depository or returned
24 to the contributor.² If such contribution is deposited and cannot be determined to be legal, the

¹ 52 U.S.C § 30118(a); 11 C.F.R. § 114.2(b), (d).

² See 11 C.F.R. § 103.3(b)(1).

1 treasurer shall, within thirty days from receipt of the contribution, refund the contribution to the
2 contributor.³

3 The available record indicates that the prohibited contribution that Respondent made was
4 timely refunded by the Committee within thirty days of its receipt of the contribution.

5 Accordingly, the Commission finds no reason to believe that Rural King Distributing violated
6 52 U.S.C. § 30118(a) by making a prohibited contribution.

³. *Id.*

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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6 **RESPONDENT:** Rural King Distribution & Management, Inc.

MUR: 7007

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8 **I. INTRODUCTION**

9 This matter was generated based on a Complaint filed by Richard Stubblefield. As set
10 forth below, the Federal Election Commission (the "Commission") finds no reason to believe
11 that Rural King Distribution & Management, Inc. ("Respondent") violated 52 U.S.C. § 30118(a),
12 a provision of the Federal Election Campaign Act of 1971, as amended (the "Act"), by making a
13 prohibited contribution.

14 **II. FACTUAL BACKGROUND**

15 The Complaint alleges that on December 31, 2015, Respondent, a corporation, made a
16 prohibited \$2,700 contribution to Kyle McCarter for Congress Committee ("Committee"), the
17 principal campaign committee for McCarter, who sought the Republican nomination in the 15th
18 Congressional District in Illinois in 2016.

19 Rural King Distribution & Management, Inc. responds that it "had no participation in the
20 campaign of Kyle McCarter for Congress Committee" and did not contribute "any monetary
21 donations to [the McCarter] campaign."¹

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Rural King Distribution & Management Inc. Resp. at 1 (Feb. 19, 2016).

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² 52 U.S.C § 30118(a); 11 C.F.R. § 114.2(b), (d).

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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6 **RESPONDENT:** James W. Best **MUR:** 7007

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8 **I. INTRODUCTION**

9 This matter was generated based on a Complaint filed by Richard Stubblefield. As set
10 forth below, the Federal Election Commission ("Commission") finds reason to believe that
11 James W. Best violated 52 U.S.C. § 30116(a), a provision of the Federal Election Campaign Act
12 of 1971, as amended, by making an excessive contribution.

13 **II. FACTUAL BACKGROUND**

14 On November 5, 2015, James W. Best made two contributions totaling \$40,000 to Kyle
15 McCarter for Congress Committee ("Committee"), the principal campaign committee for
16 McCarter, who sought the Republican nomination in the 15th Congressional District in Illinois in
17 2016. One contribution was in the amount of \$37,300 designated for the 2016 primary election,
18 and the other was in the amount of \$2,700 designated for the 2016 general election. On
19 January 28, 2016, the Committee refunded \$40,000 to Best. The Complaint alleges that West
20 made an excessive contribution to the Committee with respect to his contribution for the 2016
21 primary election.

22 Best acknowledges in response to the Complaint that he made an improper contribution
23 that the Committee refunded.¹

¹ James W. Best Resp. at 1 (July 28, 2016).

III. LEGAL ANALYSIS

For the 2016 election cycle, no person was permitted to make contributions to a candidate for federal office or his authorized political committee which in the aggregate exceeded \$2,700 for each election.²

The available record indicates that Best's \$37,300 contribution to the Committee designated for the 2016 primary election exceeded the applicable contribution limit by \$34,600. Accordingly, the Commission finds reason to believe that James W. Best violated 52 U.S.C. § 30116(a).

² See 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1).

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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5
6 **RESPONDENT:** Burgdorf and Associates Wealth Managers, Inc.

MUR: 7007

7
8 **I. INTRODUCTION**

9 This matter was generated based on information ascertained by the Federal Election
10 Commission (the "Commission") in the normal course of carrying out its supervisory
11 responsibilities, and by a Complaint filed by Richard Stubblefield. As set forth below, the
12 Commission finds no reason to believe that Burgdorf and Associates Wealth Managers, Inc.
13 ("Respondent") violated 52 U.S.C. § 30118(a), a provision of the Federal Election Campaign Act
14 of 1971, as amended (the "Act"), by making a prohibited contribution.

15 **II. FACTUAL BACKGROUND**

16 The Complaint alleges that on December 31, 2015, Respondent, a corporation, made a
17 prohibited \$250 contribution to Kyle McCarter for Congress Committee ("Committee"), the
18 principal campaign committee for McCarter, who sought the Republican nomination in the 15th
19 Congressional District in Illinois in 2016. Twenty-eight days later, on January 28, 2016, the
20 Committee refunded \$250 to Respondent.

21 Burgdorf and Associates Wealth Managers, Inc. acknowledges in response to the
22 Complaint that it made an improper contribution that the Committee refunded.¹

¹ Burgdorf and Associates Wealth Managers, Inc. Resp. at 1 (Mar. 14, 2016).

III. LEGAL ANALYSIS

The Act and Commission regulations prohibit corporations from making contributions to candidate committees.² Contributions that present genuine questions as to whether they are prohibited may be, within ten days of receipt, deposited into a campaign depository or returned to the contributor.³ If such contribution is deposited and cannot be determined to be legal, the treasurer shall, within thirty days from receipt of the contribution, refund the contribution to the contributor.⁴

The available record indicates that the prohibited contribution that Respondent made was timely refunded by the Committee within thirty days of its receipt of the contribution. Accordingly, the Commission finds no reason to believe that Burgdorf and Associates Wealth Managers, Inc. violated 52 U.S.C. § 30118(a) by making a prohibited contribution.

² 52 U.S.C § 30118(a); 11 C.F.R. § 114.2(b), (d).

³ See 11 C.F.R. § 103.3(b)(1).

⁴ *Id.*

OFFICE OF
GENERAL COUNSEL

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of APR 32 AM 8:32

Kyle McCarter for Congress Committee
and Kelly Standfield in her
official capacity as treasurer

MUR 7007

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Richard Stubblefield and pursuant to information ascertained by the Federal Election Commission (the "Commission") in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Kyle McCarter for Congress Committee and Kelly Standfield in her official capacity as treasurer ("Respondents" or the "Committee") violated 52 U.S.C. §§ 30116(f) and 30118(a).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 52 U.S.C. § 30109(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Kyle McCarter is a State Senator in the Illinois General Assembly who sought the Republican nomination in the 15th Congressional District in 2016.

2. McCarter designated the Committee as his principal campaign committee for the congressional election. The Committee is a political committee within the meaning of 52 U.S.C. § 30101(4). Kelly Standfield is the Committee's treasurer of record.

3. Under the Federal Election Campaign Act of 1971, as amended (the "Act"), an individual may not make a contribution to a candidate or his authorized political committee with respect to any election in excess of \$2,700 during the 2016 election. See 52 U.S.C. § 30116(a)(1)(A) and 11 C.F.R. § 110.1(b)(1). Candidates and political committees are prohibited from knowingly accepting excessive contributions. See 52 U.S.C. § 30116(f). When a committee receives an excessive contribution, the committee must, within 60 days of the contribution's receipt, either refund the excessive portion of the contribution or obtain a redesignation or reattribution from the contributor. See 11 C.F.R. § 103.3(b)(3).

4. The Act also prohibits political candidate committees from knowingly accepting contributions from the general treasury funds of corporations. See 52 U.S.C. § 30118. Contributions that present genuine questions as to whether they are prohibited may be, within 10 days of receipt, deposited into a campaign depository or returned to the contributor. See 11 C.F.R. § 103.3(b)(1). If such contribution is deposited and cannot be determined to be legal, the treasurer shall, within 30 days from receipt of the contribution, refund the contribution to the contributor. *Id.*

5. The Commission's regulations permit a candidate's committee to receive contributions for the general election prior to the primary election. See 11 C.F.R. § 102.9(e)(1). If, however, the candidate does not become a candidate in the general election, the committee must: (1) refund the contributions designated for the general election; (2) redesignate such contributions in accordance with 11 C.F.R. §§ 110.1(b)(5) or 110.2(b)(5); or (3) reattribute such

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contributions in accordance with 11 C.F.R. § 110.1(k)(3). See 11 C.F.R. §§ 102.9(e)(3), 110.1(b)(3)(i), and 110.2(b)(3)(i). The committee must do so within 60 days of the date that the committee has actual notice of the need to redesignate, reattribute, or refund the contributions, such as the date the candidate loses the primary or withdraws from the campaign.

6. On January 29, 2016, the Committee filed its 2015 Year-End Report, covering the period from October 1, 2015 to December 31, 2015. This report disclosed that the Committee received excessive and prohibited contributions totaling \$45,413.69 from two individuals and two corporate entities that were not timely redesignated, reattributed, or refunded. The Committee disclosed the untimely refunds of three of these contributions on its 2016 Pre-Primary Report; one of the contributions, in the amount of \$500, has not been refunded. The chart below reflects these contributions:

Contributor	Date	Excessive or Prohibited Amount
Tri Ford, Inc. (Corporation)	11/05/15	\$ 305.00
James W. Best	11/05/15	\$34,600.00
Darren Bailey	12/08/15	\$10,008.69
Terra Properties (Corporation)	12/31/15	\$ 500.00
	Total	\$45,413.69

7. The Federal Committee disclosed Darren Bailey's \$10,008.69 contribution as a contribution from Total Grain Marketing, LLC ("TGM"), which forwarded a check in that amount to the Federal Committee at Bailey's request, consisting of funds Bailey received from TGM in a commercial transaction. After the Federal Committee refunded the \$10,008.69 to TGM, TGM provided the funds to Bailey.

8. On March 3, 2016, the Committee filed its 2016 12 Day Pre-Primary Report, covering the period from January 1 to February 24, 2016. This report disclosed the receipt of a \$2,700 contribution from one individual designated for the 2016 general election.

9. On March 15, 2016, Kyle McCarter lost the 2016 primary election for Illinois's 15th Congressional District.

10. On April 15, 2016, the Committee filed the 2016 April Quarterly Report covering the period from February 25, 2016, to March 31, 2016. This report disclosed the receipt of \$3,200 in contributions designated for the 2016 general election from one individual and one partnership for which an attribution to one individual was provided.

11. The Committee did not refund the three 2016 general election contributions totaling \$5,900 that were originally disclosed on its 2016 12 Day Pre-Primary and 2016 April Quarterly Reports. These contributors are reflected on the chart below:

Contributor	Date	Amount
Robert Mercer	2/22/16	\$2,700.00
Seven Oaks Apartments (Partnership)	3/08/16	\$2,500.00
William Hotaling	3/09/16	\$ 700.00
	Total	\$5,900.00

12. Respondents contend that the resulting violations of the Act were inadvertent. Respondents further contend that the Committee erroneously reported the \$700 contribution from William Hotaling as designated for the 2016 general election on its original 2016 April Quarterly Report. On March 26, 2018, the Committee amended the 2016 April Quarterly Report, disclosing the \$700 contribution from Hotaling as designated for the 2016 primary election.

VI. 1. Respondents will pay a civil penalty to the Commission in the amount of Five Thousand Three Hundred Dollars (\$5,300) pursuant to 52 U.S.C. § 30109(a)(5)(A).

3. Respondents will amend the Committee's 2015 Year-End Report to reflect Bailey as the contributor of a \$10,008.69 contribution instead of Total Grain Marketing LLC.

VII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lisa J. Stevenson
Acting General Counsel

BY: Kathleen Guith
Kathleen M. Guith
Associate General Counsel
for Enforcement

5/28/18
Date

FOR THE RESPONDENTS:

Kyle McCarter
Kyle McCarter
Candidate

4/18/18
Date

OFFICE OF
GENERAL COUNSEL
BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

James W. Best

2018 APR 30 PM 1:08

MUR 7007

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Richard Stubblefield, and pursuant to information ascertained by the Federal Election Commission (the "Commission") in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that James W. Best ("Respondent") violated 52 U.S.C. § 30116(a).

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

- I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 52 U.S.C. § 30109(a)(4)(A)(i).
- II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Respondent enters voluntarily into this agreement with the Commission.
- IV. The pertinent facts in this matter are as follows:
 1. Respondent is an individual contributor. Kyle McCarter for Congress Committee (the "Committee") is the principal campaign committee of Kyle McCarter, and is a political committee within the meaning of 52 U.S.C. § 30101(4).

2. Under the Federal Election Campaign Act of 1971, as amended, for the 2016 election cycle, no person was permitted to make contributions to a candidate for federal office or his authorized political committee which in the aggregate exceeded \$2,700 for each election. See 52 U.S.C. § 30116(a)(1)(A) and 11 C.F.R. § 110.1(b)(1).

3. On November 5, 2015, Respondent made two contributions to the Committee totaling \$40,000; one in the amount of \$37,300 designated for the 2016 primary election, and another in the amount of \$2,700 designated for the 2016 general election.

4. On January 28, 2016, the Committee refunded \$40,000 to Best.

5. Respondent's \$37,300 contribution to the Committee exceeded the applicable contribution limit by \$34,600.

V. Respondent violated 52 U.S.C. § 30116(a) by making an excessive contribution totaling \$34,600.

VI. 1. Respondent will pay a civil penalty to the Commission in the amount of Three Thousand Seven Hundred Dollars (\$3,700) pursuant to 52 U.S.C. § 30109(a)(5)(A).

2. Respondent will cease and desist from committing violations of 52 U.S.C. § 30116(a).

VII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

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X. This Conciliation Agreement constitutes the entire agreement between the parties matters raised herein, and no other statement, promise, or agreement, either written or made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

5/29/18
Date

4-18-18
Date